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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,623	04/08/2004	Dennis R. Boulais	BSEN121510	8190
26389	7590	03/24/2005	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			KASZTEJNA, MATTHEW JOHN	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/820,623

Applicant(s)

BOULAIS, DENNIS R.

Examiner

Matthew J Kasztejna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of the poor picture quality of Figure 1. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-7, 14-20 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 6,830,545 to Bendall.

**In regards to claims 1 and 14-18**, Bendall discloses an operator control device comprising: one or more controls 22 for controlling the endoscope; and an engaging component 32 having a disengaged mode and engaged mode, wherein in the disengaged mode the engaging component allows the endoscope shaft and operator control device to rotate independently of one another, and in the engaged mode, the engaging component causes the endoscope shaft and the operator control device to rotate together (see Fig. 2 and Col. 3, Lines 5-31). The apparatus of Bendall is inherently capable of performing the recited method claims.

**In regards to claim 2**, Bendall discloses an operator control device, wherein the engaging component has a detachment mode which allows the operator control device to be detached from the endoscope shaft for cleaning and reuse (see Col. 3, Lines 51-54).

**In regards to claim 3**, Bendall discloses an operator control device, wherein the engaging component may be manually switched between the engaged mode and the disengaged mode (see Col. 3, Lines 5-17).

**In regards to claim 4**, Bendall discloses an operator control device, wherein the engaging component may be remotely switched between the engaged mode and the disengaged mode (see Col. 2, Lines 25-31).

**In regards to claims 5 and 19**, Bendall discloses an operator control device, wherein the engaging component directly engages the endoscope shaft (see Fig. 1).

**In regards to claims 6 and 20**, Bendall discloses an operator control device, wherein the engaging component engages a fixed feature on the endoscope shaft (see Fig. 2).

**In regards to claim 7**, Bendall discloses an operator control device, wherein the fixed feature is a break-out box 14 (see Figs. 2-3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,830,545 to Bendall.

**In regards to claims 10-11 and 13**, Bendall discloses an operator control device with an engaging component 32 having a disengaged mode and engaged mode, wherein in the disengaged mode the engaging component allows the endoscope shaft and operator control device to rotate independently of one another, and in the engaged mode, the engaging component causes the endoscope shaft and the operator control device to rotate together (see Fig. 2 and Col. 3, Lines 5-31), but is silent with respect to the engaging mechanism being a caliper style set of pads or a C style clamping device. However, Bendall discloses an operator control device, wherein depressing finger trigger finger 34 causes the gripping mechanism 32 to clamp onto insertion tube 11 (col. 3, Lines 24-25). Therefore it would have been obvious to one skilled in the art at the time the invention was made that the device of Bendall is inherently capable of being constructed with a caliper style set of pads or a C-style clamping device in order to engage and disengage with the instrument shaft as taught by Bendall.

3. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,830,545 to Bendall in view of U.S. Patent No. 5,876,332 to Looney.

**In regards to claims 8-9**, Bendall discloses an operator control device with an engaging component but is silent with respect to the engaging component being a rotating locking collar. Looney teaches of an analogous apparatus having a collar means 102 for rotating and securing an instrument 82 into a desired position to perform surgery (see Fig. 2 and Col. 7, Lines 35-46). Furthermore Looney discloses that one

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skilled in the art will appreciate that there are numerous other options available to mount the handle segment 89 to the arm 20 so that the second section 88 is maintained at a desired position (see Col. 8, Lines 25-35). It would have been obvious to one skilled in the art to use a collar locking means in the apparatus of Bendall in order to provide a means for longitudinally and rotationally positioning an instrument for surgery as taught by Looney.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,830,545 to Bendall in view of U.S. Patent No. 6,805,664 to Doyle et al.

**In regards to claim 12**, Bendall discloses an operator control device with an engaging component but is silent with respect to the engaging component being a clutch mechanism. Doyle et al. teach of an analogous apparatus having a clutch 202 for adjusting the position of a device (see Col. 4, Lines 23-67). It would have been obvious to one skilled in the art to use a clutch means in the apparatus of Bendall in order to provide a means for rotationally positioning an instrument for surgery as taught by Doyle et al.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S Patent Application Publication No. 2004/0220449 to Zirps et al.

U.S Patent No. 5,441,042 to Putman

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

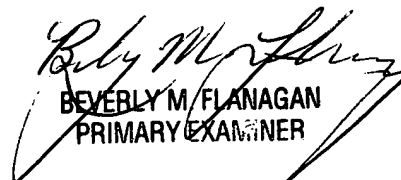
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJK

MK

3/17/05

  
BEVERLY M. FLANAGAN  
PRIMARY EXAMINER